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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,918

01/26/2004

Alexandre Cheifot

7830

75027

7590

12/17/2008

TANTALUS SYSTEMS CORP.

#301 - 3480 GILMORE WAY

BURNABY - BRITISH COLUMBIA, V5G 4Y1

CANADA

EXAMINER

DAILEY, THOMAS J

ART UNIT

PAPER NUMBER

2452

MAIL DATE

DELIVERY MODE

12/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/763,918

**Applicant(s)**

CHEIFOT ET AL.

**Examiner**

Thomas J. Dailey

**Art Unit**

2452

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2000-2002 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/26/2004; 7/22/2005; 10/28/2007; 6/12/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1-40,101-129,1000-1039,2000-2007,3000-3002,4000-4008,5000-5004,6000-6004,7000 and 8000.

Continuation of Disposition of Claims: Claims **withdrawn** from consideration are 1-40,101-129,1000-1039,3000-3002,4000-4008,5000-5004,6000-6004,7000 and 8000.

**DETAILED ACTION**

1. Claims 1-40, 101-129, 1000-1039, 2000-2007, 3000-3002, 4000-4008, 5000-5004, 6000-6004, 7000, and 8000 are pending.

***Election/Restrictions***

2. During a telephone conversation with Mark Yang on December 12, 2008 a provisional election was made without traverse which confirmed the communication of October 30, 2007 that the applicant intended to prosecute the invention of a method of homogenizing a network, claims 2000-2007. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-40, 101-129, 1000-1039, 3000-3002, 4000-4008, 5000-5004, 6000-6004, 7000, and 8000 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Information Disclosure Statement***

3. The information disclosure statement filed 6/12/2008 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

4. WIPO document, WO 04/00426 A1 (Hartwig) was listed on the 1449 form, but a copy was not entered in the case file.

#### ***Specification***

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### ***Claim Objections***

6. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered.
7. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).
8. Misnumbered claims 2000-2007 should be renumbered claims 41-48 (i.e. claim 2000 should be 41; claim 2001 should be 42; etc).
9. Claims 2004-2008 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). For example, claim 2004 recites, "The method of claims 2000-2003, wherein..." As claim 2003 also depends from claims 2000-2002 (thus making it multiple dependent), claim 44 is improper.

10. Further, claim 2003 is objected to under 37 CFR 1.75(c) as being in improper as any dependent claim which refers to more than one other claim ("multiple dependent claim ") shall refer to such other claims in the *alternative only* (emphasis added). See MPEP § 608.01(n). For example claim 2003, recites, "The method claims of 2000—2002, wherein..."
11. Accordingly, the claims 2003-2008 have not been further treated on the merits.

***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 2000-2002 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
14. Claim 2000 recites a relative term that renders the claim indefinite. The term "to be of *the same nature*" (line 4) is not defined in the claims and the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Therefore, it is unclear what this limitation should be interpreted as. Does it mean the outputs are the same format? The exact same output? The

applicant needs to clarify the language so that a reasonable interpretation can be given.

15. Claim 2000 recites, "its" (line 4). "Its" lacks clear antecedent basis in the claim, as it could be referring to any number of previously recited elements (e.g. the first or second heterogeneous element, the service, etc.).

16. Claim 2001 recites a relative terms that render the claim indefinite. The terms "*fuller* functional station" (lines 1-2) and "*lesser* functional station" are not defined in the claims and the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Therefore, it is unclear what this limitation should be interpreted as. Lesser or fuller relative to what or to what function? Claim 2003 appears to define lesser and fuller more clearly and were that subject matter in claim 2001, it would alleviate any indefiniteness.

17. Claim 2002 recites, "CAS message" (line 2). It is unclear what "CAS" refers to as it is an acronym that may refer to any number of types of messages. While the specification, states that CAS refers to "Contextual Addressing Scheme," it also need to be clearly recited in the claim so as to avoid any ambiguity.

***Claim Rejections - 35 USC § 102***

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

19. Claims 2000 and 2001 are rejected under 35 U.S.C. 102(b) as being anticipated by "Internet Time Synchronization: The Network Time Protocol" (Mills, David L.; IEEE Transactions of Communications, Vol. 39, No. 10, October 1991), hereafter "Mills."

20. As to claim 2000, Mills discloses a method of homogenizing a network (Title, "Internet Time Synchronization: The Network Time Protocol," i.e. synchronizing reads on "homogenizing") having a first heterogeneous element that produces a first output and a second heterogeneous element that produces a second output (page 1485, left column, lines 5-10, "In NTP, ..." one of the primary time servers may be interpreted "a first heterogeneous element" and one of the secondary time servers may be interpreted "a second heterogeneous element" and the outputs they produce are Network Time Protocol Messages as described briefly on page 1484, right column, section "III. Network Time Protocol"), comprising the step of providing a service to the second heterogeneous element to make its said first output appear to be of the same nature as said second output (page 1485, left column, lines 5-10, during synchronization between primary and secondary



time servers, the secondary time servers output (i.e. NTP messages which other devices will synchronize to) will be synchronized with the primary time server's output).

21. As to claim 2001, Mills discloses the first heterogeneous element is a fuller functional station and said second heterogeneous element is a lesser functional station (page 1485, left column, lines 5-10, primary time servers communicate directly with "external sources, such as timecode receivers," while secondary time servers do not), and said first heterogeneous element provides a service to said second heterogeneous element so that the output of said second heterogeneous element approximates that of a fuller functional stations (page 1485, left column, lines 5-10, during synchronization between primary and secondary time servers, the secondary time servers output (i.e. NTP messages which other devices will synchronize to) will be synchronized with the primary time server's output).

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claim 2002 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of "Content-Based Addressing and Routing: A General Model and its Application" (Carzaniga, Antonio et al.; University of Colorado, Department of Computer Science Technical Report, January 2000), hereafter "Carzaniga."

24. As to claim 2002, Mills does not disclose said lesser functional station is equipped to send a CAS message but cannot receive a CAS message.

However, Carzaniga discloses content-based addressing and content based address messages in a networked environment (Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Mills and Carzaniga in order to utilize a known addressing format for an existing event notification service (i.e. Mills' network time protocol).

### ***Conclusion***

25. For additional prior art made of record and not relied upon but considered pertinent to applicant's disclosure see attached Notice of References Cited, Form PTO-892.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.
27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./  
Examiner, Art Unit 2452

/Kenny S Lin/

Primary Examiner, Art Unit 2452